

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JOHANZ X. SANTOS, ppa, DENISE COLON,	)	C.A. No.: 03- 12210 MLW
DENISE COLON, Individually, JESUS SANTOS,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
BOB'S DISCOUNT FURNITURE; REGENT	)	
HOME DELIVERY; AGNILIZ ACOSTAS;	)	
RAUL SANTOS,	)	
	)	
Defendants.	)	
_____	)	

**Plaintiff's Concise Statement of Material  
Facts With Existing Genuine Issues to be Tried**

The Plaintiff admits to the Defendant's Concise Statement of Facts numbers 1, 2, 3, 4, and 5. The Plaintiff submits the following additional facts:

1. On March 30, 2002, Defendant Bob's Discount Furniture's (Bob's Discount) Truck was illegally parked in front of 27 Federal Street while Bob's Discount delivery personnel were delivering furniture to 27 Federal Street (Exhibit B: pages 1, 5, 8, 15-17).
2. Mr. Robert Dawley (Dawley), the Rule 30(b)(6) representative of Defendant Bob's Discount, had the responsibility to oversee loss control at Bob's Discount including investigation of accidents (Exhibit D: pages 1, 5, 8-12).
3. Defendant Bob's Discount had safety policies prohibiting its employees from illegally parking its vehicles during deliveries (Exhibit D: pages 68-70 and 76).
4. Defendant Bob's Discount admitted in its Rule 30 (b)(6) deposition that parking a delivery truck in a no parking area during a delivery is a violation of its safety policies and grounds for disciplinary action (Exhibit D: pages 68-70 and 76).
5. Defendant Bob's Discount's employee, Mr. Robert Burrus (Burrus), illegally parked the delivery truck in violation of Bob's Discount's safety policy: "Drivers' responsibility to look for traffic signs." (Exhibit D: page 70).
6. Defendant Bob's Discount employee, Forde, continuously moved furniture from the truck to the delivery location while Burrus remained in the customer's apartment (Exhibit B: pages 17-19).

7. When Bob's Discount employees Burrus and Forde parked the Bob's Discount truck in front of 27 Federal Street they were aware it was a no parking zone (Exhibit B: pages 15-17).
8. Burrus and Forde were employees of Bob's Discount Furniture actually engaged in the course of their employment in the delivery of furniture at the time of the Plaintiff's accident (Exhibit B: pages 11-13).
9. Delivery took over one hour and required multiple trips between the truck and delivery location (Exhibit B: pages 17-19).
10. Forde opined that based upon his observations the illegally parked truck obstructed the visibility between Johanz Santos and the driver of the car, Raul Santos, and that if the truck had not been illegally parked the accident would not have happened (Exhibit B: pages 29-31). Forde opined that Burrus was in violation of the law when he parked in the no parking area (Exhibit B: page 31).
11. Burrus admitted he saw children playing in the front of 27 Federal Street where he illegally parked the truck (Exhibit C: pages 1, 5, 57).
12. Burrus admitted that leaving the truck in a no parking zone would be a violation of law and that he was aware the truck created an obstruction to passing drivers (Exhibit C: page 72).
13. Burrus admitted that the obstruction created by the illegally parked truck contributed to cause the accident (Exhibit C: pages 74-75).
14. Raul Santos, the driver of the car that struck Johanz Santos, testified that he could not see Johanz Santos because the illegally parked truck was blocking his view completely (Exhibit E: pages 1, 6, 7, 24). Raul Santos also testified that he probably would have seen the boy if the truck was not illegally parked and that the accident would not have happened if the truck was not illegally parked (Exhibit E: pages 26-27). Mr. Santos also testified that in his opinion a cause of the accident was the illegally parked truck (Exhibit E: page 33).

Respectfully Submitted  
By Their Attorneys,

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